



Establishing Veteran Ownership and Control After a Transfer of Ownership or Control by a Family Member

Issue:

This brief explains the eligibility of an applicant for the Vendor Information Pages (VIP) Verification Program following a transfer by a non-Veteran of majority ownership or control, within two years prior to applying for verification, to an immediate family member who is a Veteran or Service-Disabled Veteran when the non-Veteran remains involved as a stockholder, officer, director, or key employee.

(For purposes of this brief, Veteran applies equally to Service-Disabled Veterans; applicant refers to the business entity applying for verification; and participant refers to a business entity that has already been verified.)

The Regulations:

38 CFR § 74.1 provides that an “[i]mmediate Family Member means father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, grandson, granddaughter, father-in-law, and mother-in-law.”

38 CFR § 74.4(h) provides that “[n]on-veterans who transfer majority stock ownership or control of the firm to an immediate family member within 2 years prior to the application and remain involved in the firm as a stockholder, officer, director, or key employee of the firm are presumed to control the firm. The presumption may be rebutted by showing that the transferee has independent management experience necessary to control the operation of the firm, and indeed is participating in the management of the firm.”

What This Means:

- If the majority interest in an applicant has been transferred from a non-Veteran to a Veteran or Service-Disabled Veteran family member within two years prior to the application for verification—and that family member remains involved in the firm as a stockholder, officer, director, or key employee of the firm—that non-Veteran family member is presumed to still control the firm. The Veteran or Service-Disabled Veteran may provide documentation to rebut the presumption that establishes that the Veteran or Service-Disabled Veteran has adequate experience to manage the applicant, has final decision-making authority over day-to-day and strategic management decisions, and actually participates in the management of the firm.
- This issue may occur if the Veteran or Service-Disabled Veteran acquires majority ownership or control via purchase or by gift occurring within two years of the application for verification.
- This regulation covers transfers of any membership interest of a limited liability company, stock interest of a corporation, or any other ownership interest that results in a Veteran or Service-Disabled Veteran becoming a majority owner (51 percent or greater) of the applicant within two years of applying for verification.
- Evidence rebutting the presumption that the non-Veteran family member controls the firm includes résumés, letters of explanation, by-laws, operating agreements, shareholders’ agreements, articles of incorporation, articles of organization, partnership agreements, signed contracts, company checks, and formal meeting minutes. These items may

be used to confirm actual day-to-day control and long-term decision making.

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For more information about VA Small and Veteran Business Programs, visit <http://www.va.gov/osdbu>.

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